

**401 KAR 5:052. Requirements applicable to cooling water intake structures for facilities regulated by Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).**

RELATES TO: KRS 224.10-100, 224.16-050, 224.70-100, 224.70-110, 33 U.S.C. 1251-1387, EO 2008-507, 2008-531

STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050, 224.70-100, 224.70-110, 40 C.F.R. 125.80-125.89

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the cabinet to issue, continue in effect, revoke, modify, suspend, or deny under such conditions as the cabinet may prescribe, permits to discharge into waters of the Commonwealth. KRS 224.16-050 provides that the cabinet may issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Clean Water Act, 33 U.S.C. Section 1251-1387, subject to the conditions imposed in 33 U.S.C. Section 1342(b) and (d). EO 208-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet. This administrative regulation establishes the requirements applicable to cooling water intakes structures for new facilities under Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).

Section 1. Requirements for New Facilities. (1) Requirements for new facilities pursuant to Section 316(b) of the Clean Water Act, [33 U.S.C. 1326\(b\)](#), shall be as established in the following federal regulations:

- (a) [40 C.F.R. 125.80](#), July 1, 2007;
- (b) [40 C.F.R. 125.81](#), July 1, 2007;
- (c) [40 C.F.R. 125.82](#), July 1, 2007;
- (d) [40 C.F.R. 125.83](#), July 1, 2007;
- (e) [40 C.F.R. 125.84](#), July 1, 2007;
- (f) [40 C.F.R. 125.85](#), July 1, 2007;
- (g) [40 C.F.R. 125.86](#), July 1, 2007;
- (h) [40 C.F.R. 125.87](#), July 1, 2007;
- (i) [40 C.F.R. 125.88](#), July 1, 2007; and
- (j) [40 C.F.R. 125.89](#), July 1, 2007.

(2) Substitutions. The following terms shall be substituted in the federal regulations cited in subsection (1) of this section:

- (a) "Waters of the Commonwealth" shall replace "Waters of the United States"; and
- (b) "Cabinet" shall replace "Director".

Section 2. Political subdivisions and interstate agencies may adopt or enforce requirements that are more stringent than this administrative regulation. (35 Ky.R. 471; 797; eff. 10-8-2008.)